IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 16119 of 2007(R)

PETITIONER:

V.P.SULFIKAR,
VALIYAPEEDIYAKKAL, ERANJIKODE, EDAVANNA,
MALAPPURAM DISTRICT.

BY ADV. SRI.GEORGE THOMAS (MEVADA)

RESPONDENTS:

1. THE DISTRICT COLLECTOR,
   MALAPPURAM.

2. THE TAHSILDAR ERNADU,
   MANJERI.

BY G.P. SHRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.16119 of 2007

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Dated this the 1st day of August, 2007

J U D G M E N T

The petitioner challenges Ext.P4 notice directing the petitioner to vacate the properties mentioned therein. Petitioner's property is by the side of the Chaliyar river. In order to protect the petitioner's land from erosion, the petitioner constructed a retaining wall in between the petitioner's property and the river. This is now stated to be by encroaching into *puramboke* land. Petitioner's contention is that he has no objection in the Government taking over the land, if the same is actually *puramboke* land. But, according to him, it would be to nobody's advantage to demolish the retaining wall, since that would be detrimental not only to the petitioner's property, but also to other land, and the river also. The petitioner, therefore, seeks the following reliefs in this writ petition:

> "i. Call for the records leading to issue of Exhibit P4 and quash the same by the issue of a writ of certiorari or such other writ order or direction.
>
> ii. Issue a direction compelling the 1st respondent to take a decision on Exhibits P5 and P6 within a definite time frame."

2. I have heard the learned Government Pleader also.

3. The petitioner has produced photographs of the property in question of the periods before monsoon and after monsoon. Going by the same, I find considerable merit in the contentions of the petitioner. Therefore, I am satisfied that it would be to the advantage of nobody to demolish the retaining wall, unless of course it would seriously affect the flow of the river itself in any manner. In the above circumstances, I quash Ext.P4 and direct the 1st respondent-District Collector to consider Exts.P5 and P6 after affording an opportunity of being heard to the petitioner in the light of the observations made hereinbefore. Till the District Collector pases orders as above, Ext.P4 shall not be implemented. However, further proceedings pursuant to Ext.P4 shall only be in accordance with the orders to be passed by the District Collector as directed above. If the orders to be passed are against the petitioner, the same shall not be implemented for a period of two weeks to enable the petitioner to take further action in the matter.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

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P.A. to Judge.